

Group IV: Claims 38-47, drawn to a method for treatment, prevention, or both of urinary calculi; and

Group V: Claims 48-57, drawn to a milk fever method.

Applicants elect, with traverse, Group I, Claims 1-13, drawn to a method of coating, for further prosecution.

In regard to Groups I and II-V, the Office has characterized the relationship between these groups as "process of making and product made." Citing MPEP §806.05(f), the Office suggests the process as claimed can be used to make other and materially different products such as "fertilizers". However, there is no evidence of record to show that the claimed process could be used to make "fertilizers" as the Office has alleged. If, in fact, the claimed process can be made by a "fertilizers", the Office has failed to show that the alleged product of "fertilizers" is materially different from the claimed product. Accordingly, Applicants respectfully submit that the Restriction Requirement is unsustainable, and it should therefore be withdrawn.

In regard to Groups II-III and IV-V, the Office has characterized the relationship between these groups as product and process of use. Citing MPEP §806.05(h), the Office concludes that the product as claimed can be used as "a pesticide". However, the Office has not provided reasons and/or examples to support this conclusion. Further, the Office has failed to show that the proposed use of the claimed product as "a pesticide" is materially different from the claimed use. Accordingly, Applicants respectfully submit that the Office has failed to meet the burden necessary in order to sustain the Restriction Requirement. Withdrawal of the Restriction Requirement is respectfully requested.

In regard to Groups II-III, the Office has characterized the relationship between these two groups as “distinct inventions”. The Office simply suggests that these are two independent inventions because “Group II can be used as a pesticide.” However, the Office has not provided reasons and/or examples to support this conclusion. Therefore the Office has provided a conclusion lacking any support whatsoever. Accordingly, Applicants respectfully submit that the Office has failed to meet the burden necessary in order to sustain the Restriction Requirement.

Applicants further traverse the Restriction Requirement on the additional ground that a search of all the claims would not impose a serious burden on the Office. The MPEP in §803 states as follows:

“If the search and examination of an entire application can be made without a serious burden, the Examiner must examine it on the merits, even though it includes claims to distinct or independent inventions.”

Applicants respectfully submit that a search of all the claims would not impose a serious burden on the Office. Applicants respectfully point out that thousands of U.S. patents have issued in which many more subclasses are searched, and the Office cannot reasonably assert that a burden exists in searching these subclasses.

Accordingly, and for the reasons presented above, Applicants submit that the Office has failed to meet the burden necessary in order to sustain the Restriction Requirement. Withdrawal of the Restriction Requirement is respectfully requested.

Further, the Office has required an Election of Species. More specifically, the Office has required “the election of a single disclosed species of feed product.”

Applicants elect, with traverse, condensed fermentation solubles as “a single disclosed species for the species of feed product,” for further prosecution. Claims 1-57 read on the elected condensed fermentation solubles as the species of feed product.

Applicants traverse the Election of Species Requirement on the ground that a search of all the “species” and claims herein would not impose a serious burden on the Office. The MPEP in §803 states as follows:

“If the search and examination of an entire application can be made without a serious burden, the Examiner must examine it on the merits, even though it includes claims to distinct or independent inventions.”

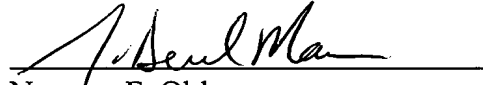
Applicants respectfully submit that a search of all the claims would not impose a serious burden on the Office. Applicants respectfully point out that thousands of U.S. patents have issued in which many more subclasses and “species” are searched, and the Office cannot reasonably assert that a burden exists in searching these subclasses and “species”.

Accordingly, and for the reasons presented above, Applicants submit that the Office has failed to meet the burden necessary in order to sustain the Election of Species Requirement. Withdrawal of the Restriction Requirement is respectfully requested.

Applicants further submit that this application is in condition for examination on the merits and an early notification to that effect is earnestly solicited.

Respectfully submitted,

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